

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6964**

**BILL NUMBER:** HB 1324

**NOTE PREPARED:** Apr 4, 2013

**BILL AMENDED:** Apr 4, 2013

**SUBJECT:** Motor Fuels.

**FIRST AUTHOR:** Rep. Frye R

**FIRST SPONSOR:** Sen. Eckerty

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) The bill makes the following provisions:

*Sales Tax on Alternative Fuels as Motor Fuel* - The bill provides for the collection and remittance of the state gross retail tax on alternative fuels.

*Motor Carrier Fuel Use Tax and Surtax on Alternative Fuels as Motor Fuel* - The bill provides for the imposition of the \$0.16 per gallon/gasoline gallon equivalent Motor Carrier Fuel Tax (MCFUT) and \$0.11 per gallon/gasoline gallon equivalent (GGE) Surtax upon alternative fuels by imposing the existing rates on the diesel gallon equivalents (DGE) of alternative fuel sold.

*Excise Tax on Alternative Fuels as Motor Fuel* - The bill imposes an excise tax of \$0.16 per diesel gallon equivalent of alternative fuel used as motor fuel.

*Phaseout of Alternative Decal* - The bill provides that the alternative fuel decal law does not apply to vehicles other than utility-owned vehicles after June 30, 2013, and to utility-owned vehicles after March 31, 2014.

*Local Road Impact Fee* - The bill imposes a local road impact fee on electric-powered motor vehicles, including hybrid motor vehicles, that must be paid when registering the motor vehicle. It provides that the local road impact fee must be deposited in the Highway, Road and Street Fund.

**Effective Date:** July 1, 2013.

**Summary of NET State Impact:** (Revised) The bill makes several changes to the taxation of alternative fuels. A summary of the estimated FY 2014 and FY 2015 state revenue impacts by source and distribution is provided in the following tables.

Estimated FY 2014 State Revenue by Source and Distribution						
Fund	Sales Tax	Excise Tax	Local Road Impact Fee	Motor Carrier Fuel Use & Surcharge <sup>1</sup>	Alternative Fuel Decal <sup>2</sup>	TOTAL
Motor Vehicle Highway		\$2.25 M		X	(\$0.19 M)	<b>\$2.06 M</b>
Highway, Road, and Street		\$0.75 M	\$1.0 M		(\$0.07 M)	<b>\$1.68 M</b>
State Highway Fund				X		
Motor Carrier Reg. Fund				X		
General Fund	\$3.0 M					<b>\$3.0 M</b>
Commuter Rail Service	\$3,700					<b>\$3,700</b>
Industrial Rail Service	\$900					<b>\$900</b>
<b>TOTAL</b>	<b>\$3.0 M <sup>3</sup></b>	<b>\$3.0 M</b>	<b>\$1.0 M</b>		<b>(\$0.26 M)</b>	<b>\$6.74 M</b>
<p>1. The revenue amounts from the Motor Carrier Fuel Use Tax and Surtax on alternative fuel are indeterminable at this time; however, the funds that will be impacted have been noted.</p> <p>2. The table shows the loss of revenue from the Alternative Fuel Decal after full phaseout.</p> <p>3. The Sales Tax revenues do not sum due to rounding.</p>						

Estimated FY 2015 State Revenue by Source and Distribution						
Fund	Sales Tax	Excise Tax	Local Road Impact Fee	Motor Carrier Fuel Use & Surcharge <sup>1</sup>	Alternative Fuel Decal <sup>2</sup>	TOTAL
Motor Vehicle Highway		\$1.725 M		X	(\$0.19 M)	<b>\$1.535 M</b>
Highway, Road, and Street		\$0.575 M	\$1.5 M		(\$0.07 M)	<b>\$2.005 M</b>
State Highway Fund				X		
Motor Carrier Reg. Fund				X		
General Fund	\$2.3 M					<b>\$2.3 M</b>
Commuter Rail Service	\$2,800					<b>\$2,800</b>
Industrial Rail Service	\$700					<b>\$700</b>
<b>TOTAL</b>	<b>\$2.3 M <sup>3</sup></b>	<b>\$2.3 M</b>	<b>\$1.5 M</b>		<b>(\$0.26 M)</b>	<b>\$5.84 M</b>
<p>1. The revenue amounts from the Motor Carrier Fuel Use Tax and Surtax on alternative fuel are indeterminable at this time; however, the funds that will be impacted have been noted.</p> <p>2. The table shows the loss of revenue from the Alternative Fuel Decal after full phaseout.</p> <p>3. The Sales Tax revenues do not sum due to rounding.</p>						

(Revised) *Exclusion from Alternative Fuel Decal Requirement* - This exclusion is estimated to ultimately (by FY 2015) result in a loss of revenue of approximately \$260,000 per year. This will have a small impact on both the Motor Vehicle Highway Account and the Highway, Road, and Street Fund. Both of these funds then have a small impact on State Highway Fund (\$0.14 M) and local transportation distributions (\$0.12 M).

(Revised) *Motor Carrier Fuel Use Tax and Motor Carrier Surcharge* - The imposition of the Motor Carrier Fuel Tax and Surcharge on the use of alternative fuels will have near-term minimal, but indeterminate, impacts on revenues.

(Revised) *Sales Tax and Excise Tax on Alternative Fuels as Motor Fuel* - The imposition of an excise tax on alternative fuels used as a motor fuel is estimated to generate \$2.25 M for the Motor Vehicle Highway Account (MVH) and \$0.75 M for the Highway, Road, and Street Fund.

The imposition of Sales Tax on alternative fuels used as a motor fuel is estimated to generate slightly more than \$3 M. Sales tax is distributed primarily to the General Fund (99.848%). However, the Commuter Rail Service Fund receives 0.123% of sales tax revenues, and the Industrial Rail Service Fund receives 0.029% of the sales tax revenues.

(Revised) *Local Road Impact Fee* - This fee is expected to raise an additional \$1 M in FY 2014 for the Highway, Road, and Street Fund. Yearly revenues are expected to continue to increase each year as demand for electric vehicles increases.

**Explanation of State Expenditures:** (Revised) *Bureau of Motor Vehicles (BMV)* - The BMV will be required to collect the local road impact fee on certain kinds of electric vehicles. The bill's requirements should be within BMV's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

(Revised) *Department of State Revenue (DOR)* - DOR will be required to collect the sales tax and excise tax on alternative fuels used as motor fuel. In addition, DOR's Motor Carrier Services Division will collect the Motor Carrier Fuel Use Tax (MCFUT) and Surcharge on alternative fuels and will calculate and collect the local road impact fee from motor carriers that fall under the International Registration Plan. The bill's requirements should be within DOR's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

**Explanation of State Revenues:** (Revised) *Sales Tax on Alternative Fuels as Motor Fuel* - This bill provides for the collection and remittance of the 7% state gross retail tax on alternative fuels used as motor fuel. Alternative fuels are defined in the bill as:

- (1) Butane, propane (LPG), compressed natural gas (CNG), and liquified natural gas (LNG);
- (2) Hydrogen;
- (3) Coal-derived liquid fuels;
- (4) Non-alcohol fuels derived from biological material (biodiesel);
- (5) P-Series fuels (mixture of natural gas liquids, ethanol, and methyltetrahydrofuran)

According to the U.S. Energy Information Administration, annual alternative fuel (as defined in the bill) consumption in Indiana is approximately 19 million gasoline gallon equivalents per year. Biodiesel, which under the bill is defined as an alternative fuel, is already considered a special fuel and is therefore currently

assessed a 7% state gross retail tax.

The following table shows the predicted alternative fuel (for transportation) consumption, price, and sales tax impact on CNG, LNG, and LPG. Note that while CNG and LNG consumption is estimated to increase in subsequent years, LPG consumption is expected to decrease over time as users transition to other alternative fuels. There is no information available on consumption of coal-derived liquid fuels, hydrogen, or P-Series fuels in Indiana. The sales tax impact is the estimated sales tax revenue generated by alternative fuel sales for transportation. This amount would be added to the sales tax that would normally be collected, assuming alternative fuel consumption has no impact on gasoline consumption.

Estimated Consumption and Price on Alternative Fuels							
FY	CNG Consumption (GGE)	CNG Fuel Price (\$ per GGE)	LNG Consumption (GGE)	LNG Fuel Price (\$ per GGE)	LPG Consumption (GGE)	LPG Fuel Price (\$ per GGE)	Sales Tax Impact
2014	4.5 M	\$1.95	1.4 M	\$1.29	13.2 M	\$2.47	\$3 M
2015	5.0 M	\$2.03	1.5 M	\$1.34	8.0 M	\$2.49	\$2.3 M

Sales tax is distributed primarily to the General Fund (99.848%). However, the Commuter Rail Service Fund receives 0.123% of sales tax revenues and the Industrial Rail Service Fund receives 0.029% of the sales tax revenues.

Noncompliance with the sales tax provision results in a Class D felony. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenue would likely be small.

Under this provision, retail merchants who use a metered pump that sell the alternative fuel at a price other than the advertised price commit a Class B infraction.

(Revised) *Motor Carrier Fuel Use Tax (MCFUT) on Alternative Fuels as a Motor Fuel* - The bill provides for the imposition of the Motor Carrier Fuel Use Tax upon alternative fuels by imposing the existing rates on the DGE of alternative fuels consumed by motor carriers. MCFUT revenues are distributed into the State Highway Fund (INDOT).

MCFUT revenues are based on the amount of motor fuel bought outside of Indiana but consumed by a carrier in its operations on Indiana highways. The MCFUT does not apply to that portion of motor fuel used to propel equipment mounted on a motor vehicle. This is also known as the proportional use credit and includes vehicles such as cement mixers, sanitation trucks, dump trucks, etc.

Under the bill, motor carriers that utilize alternative fuel will be required to submit quarterly tax reports and submit them to the DOR's Motor Carrier Services Division. The penalties for late submission are as follows:

- A \$50 penalty, or 10% of tax owed, whichever is greater, is due on any late remittance.
- A \$50 penalty is due for any late report when no remittance is due.
- A carrier that fails to file a quarterly report is subject to a civil penalty of \$300 for each report that is not filed.

In Indiana, alternative fuel usage by motor carriers has been tracked by the DOR and has, to date, been marginal. Therefore, the imposition of the MCFUT on these fuels will likely net a very small amount.

*Motor Carrier Surcharge on the Use of Alternative Fuel* - The bill will impose an \$0.11 per DGE surcharge on alternative fuel. The current definition is expanded to include gallons of gasoline or special fuel, as well as DGE of an alternative fuel. The revenues from this surcharge are distributed to the Motor Carrier Relief Fund (9%), State Highway Fund (45.5%), and Motor Vehicle Highway Account (45.5%). The surcharge does not apply to that portion of motor fuel used to propel equipment mounted on a motor vehicle (proportional use credit). The penalties for noncompliance with the surcharge are the same as those for noncompliance with the MCFUT.

In Indiana, alternative fuels used by motor carriers has been tracked by the DOR and has, to date, been marginal. Therefore, the imposition of the motor carrier surcharge on these fuels will likely net a very small amount.

(Revised) *Excise Tax on Alternative Fuels as a Motor Fuel* - The bill imposes an excise tax of \$0.16 per DGE on alternative fuels used as motor fuel. This tax is collected and paid by the retailer, who retains 1.6% of the amount collected as reimbursement for costs associated with the collection of the tax. The revenues from this tax are deposited in the Highway, Road, and Street Fund (25%) and the Motor Vehicle Highway Account (75%). Refunds to retailers for exempt purchasers are to be paid out of the Motor Vehicle Highway Account, making these excise tax refunds an expense of the Motor Vehicle Highway Account. Exempt purchasers include government entities, public transportation corporations, public transit departments, and passenger carriers. The excise tax on natural gas would also employ a provisional use credit for those eligible vehicles.

<b>Alternative Fuel Excise Tax Revenue and Distribution Estimate</b>			
<b>FY</b>	<b>Revenue</b>	<b>Highway, Road, and Street Distribution</b>	<b>Motor Vehicle Highway Distribution</b>
2014	\$3.0 M	\$0.75 M	\$2.25 M
2015	\$2.3 M	\$0.575 M	\$1.725 M

Noncompliance with the excise tax provision results in a Class D felony. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenue would likely be small.

Other civil penalties may also be imposed for noncompliance. The retailer is liable for the uncollected tax plus a penalty equal to 100% of the uncollected tax. In addition, the Department may impose a negligent disregard fine of \$500. These civil penalties are deposited in the state General Fund, and the revenue generated from these penalties is likely to be small.

(Revised) *Local Road Impact Fee on Electric-Powered Vehicles* - The bill institutes a yearly impact fee on what are commonly referred to as "plug-in", or EV, and "plug-in hybrid", or PHEV vehicles.

Local Road Impact Fee Rates for Electric-Powered (EV and PHEV) Vehicles	
Vehicle Category	Annual Fee
Passenger Car	\$100
Truck <= 9,000 lbs	\$200
Truck > 9,000 and <=11,000 lbs	\$250
Truck > 11,000 lbs	\$300
Tractor w/ Semitrailer	\$500

The BMV is to collect these impact fees for the majority of vehicles. Motor carriers that are base-registered in Indiana for the International Registration Plan will pay only a portion of the required fee and will pay it to DOR. Specifically, these carriers will pay a percentage of the impact fee that equals the apportioned share of their IRP registration fee that goes to Indiana.

Using vehicle data information from the Energy Information Administration, it is estimated that this fee will generate approximately \$1 M in FY 2014 and \$1.5 M in FY 2015. Revenues from this fee are deposited into the Highway, Road, and Street Fund.

(Revised) *Indiana Department of Transportation* - INDOT will receive additional revenue from the Motor Vehicle Highway Account and the Highway, Road, and Street Fund. In FY 2014, INDOT is estimated to receive \$2 M in additional revenue into the State Highway Fund.

(Revised) *Phaseout of Alternative Fuel Decal Requirement* - The bill provides that the alternative fuel decal law does not apply to vehicles other than utility-owned vehicles after June 30, 2013, and to utility-owned vehicles after March 31, 2014. Decals, which range in price from \$100 to \$500 per decal, are administered by the Department of Revenue and are tracked by vehicle category. In CY 2012, the Department issued 1,031 decals, culminating in revenue of \$264,594.

(Revised) *Penalty Provision*: The maximum judgment for a Class B infraction is \$1,000, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

**Explanation of Local Expenditures:** *Penalty Provisions* - A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances.

**Explanation of Local Revenues:** (Revised) Local units (counties, cities, and towns) will receive additional revenue from the Motor Vehicle Highway Account and the Highway Road and Street Fund. In FY 2014, local units are estimated to receive \$1.7 M in additional transportation revenues.

*Penalty Provision* - If additional court actions occur and a guilty verdict and/or judgement is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** DOR; INDOT; BMV.

**Local Agencies Affected:** Local highway departments, trial courts, local law enforcement agencies.

**Information Sources:** Iona Hallstrom, Indiana Department of Revenue, [ihallstrom@dor.in.gov](mailto:ihallstrom@dor.in.gov); Indiana Department of Revenue Intrastate Motor Carrier Information Handbook; U.S. Energy Information Administration ([www.eia.gov/](http://www.eia.gov/)); Alternative Fuels Data Center ([www.afdc.energy.gov/](http://www.afdc.energy.gov/)); *US Department of Energy Clean Cities Alternative Fuel Price Report, October 2012*; Energy Report - LPG, Texas Comptroller of Public Accounts (<http://www.window.state.tx.us/specialrpt/energy/nonrenewable/lpg.php>).

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**Definitions:** *Gasoline Gallon Equivalent* - A gasoline gallon equivalent (GGE) is the amount of alternative fuel that produces the same number of British Thermal Units (BTUs) as a gallon of gasoline. A GGE of compressed natural gas is 126.67 cubic feet of CNG, a GGE of liquified natural gas is 1.52 gallons of LNG, and a GGE of LPG/Propane is 1.35 gallons of LPG.

*Diesel Gallon Equivalent* - A diesel gallon equivalent (DGE) is the amount of alternative fuel that produces the same number of British Thermal Units (BTUs) as a gallon of diesel fuel.